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Article I: GENERAL PROVISIONS**78-100 TITLE**

These regulations shall be known officially as the “Herndon Zoning Ordinance” and may be referred to as the “Zoning Ordinance” or “this Chapter.”

78-101 AUTHORITY

- (A) The Herndon Town Council is authorized to adopt this Chapter pursuant to the enabling authority contained in the Code of Virginia generally including without limitation Title 15.2, Chapter 22 of the Code of Virginia, the Town of Herndon Charter, and all other relevant laws of the Commonwealth of Virginia.
- (B) Whenever any provision of this Chapter refers to or cites a section of the Code of Virginia and that section is later amended or superseded, this Chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

78-102 GENERAL PURPOSE

The Town Council, for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Title 15.2, Chapter 22 of the Code of Virginia, authorizes that this Chapter is adopted as the Zoning Ordinance of the Town, together with the accompanying Official Zoning Map that is on file in the Zoning Administrator's office. This Chapter has been designed to:

- Provide for adequate light, air, convenience of access, and safety from fire, flood, crime, pollution and other dangers;
- Reduce or prevent congestion in the public and private streets and driveways;
- Facilitate the creation of a convenient, attractive, and harmonious community;
- Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, surface drainage, and other public requirements and amenities;
- Protect against destruction of or encroachment upon historic and heritage areas;
- Protect against overcrowding of land, undue density of population in relation to housing resources and community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers;
- Encourage economic development activities that provide desirable employment and enlarge the tax base;
- Protect surface water and ground water;
- Provide reasonable opportunities for the use of property;
- Conserve properties and their values and encourage the most appropriate use of land;
- Ensure a balance between the natural and built environments, and between residential and non-residential uses;
- Ensure a minimum quality in the design and site planning of development, particularly for uses of higher than average density or intensity;
- Prevent overcrowding in residential neighborhoods;
- Provide for adequate transitions between land uses of different intensities and impacts and for compatibility of new development, especially for neighborhoods, the downtown, and nearby transitional areas;

- Ensure a minimum quality in the design and function of the public streetscape, its elements, and adjacent areas such as: sidewalks, street trees, building facades, and connections between streets;
- Protect and enhance trees and vegetation;
- Ensure a minimum provision of usable and accessible open space, with active and passive recreational amenities;
- Facilitate a variety of modes of transportation and movement;
- Enhance the unique characteristics of historic and heritage resources and ensure a built environment that is a worthy heritage for future generations;
- Establish a pleasing identity that distinguishes the Town from surrounding urban and suburban areas; and
- Implement the Comprehensive Plan policies.

78-103 APPLICABILITY AND JURISDICTION

- (A) The provisions of this Chapter shall apply to all development within the corporate limits of the Town of Herndon, unless expressly exempted by the terms of this Chapter.
- (B) No development shall occur in the Town without the appropriate permit for that purpose.
- (C) Except as stated by the terms of this Chapter, the provisions of this Chapter shall apply to all land, all development, and the use of all structures and land owned or held in tenancy by the Town or its agencies or departments, by Loudoun or Fairfax counties or their agencies or departments, by utilities, school districts, and any special districts located within the incorporated areas of the Town.
- (D) No development shall occur within the corporate limits of the Town without full compliance with the provisions of this Chapter and all other applicable Town, state, and federal regulations.

78-104 RELATIONSHIP TO OTHER ORDINANCES, LAWS, AND AGREEMENTS

- (A) If the provisions of this Chapter are inconsistent with one another or if the provisions of this Chapter conflict with provisions found in other adopted codes, ordinances, or regulations of the Town, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.
- (B) The Town shall not be responsible for monitoring or enforcing private easements, covenants, restrictions, or homeowner associations and their documents, although the Town may inquire as to whether or not land is subject to easements, covenants, and restrictions during the review of development applications.
- (C) The Comprehensive Plan for the Town of Herndon shall serve as the basic policy guide for the administration of this Chapter. The policies of the Comprehensive Plan may be amended from time to time to meet the changing requirements of the Town.
- (D) Other chapters of the Herndon Town Code contain additional standards regarding development within the Town. It is the intent of the Town to administer this Chapter in accordance with these other chapters.

78-105 OFFICIAL ZONING MAP

- (A) The Official Zoning Map designates the location and boundaries of the various zoning districts established in this Chapter within the Town. The Official Zoning Map shall be kept on file in the Zoning Administrator's office and shall be available for public inspection during normal business hours.
- (B) The Official Zoning Map and all the notations on it are, by this provision, incorporated by reference and made part of this Chapter.
- (C) Unless otherwise specified, zoning district boundary lines are lot lines or the centerlines of streets, alleys, or such lines extended, fixed by dimensions, or otherwise clearly shown or described. Where uncertainty exists with respect to the boundaries of zoning districts as shown on the zoning map, the Zoning Administrator shall interpret zoning district boundaries pursuant to Section 78-202~~(K)(1)~~, *Determinations*.

- (D) Changes made in zoning district boundaries or other matters portrayed on the Official Zoning Map shall be made in accordance with the provisions of this Chapter, including Section 78-202(A), *Zoning Map Amendment*. The Zoning Administrator shall enter changes approved by the Town Council on the Official Zoning Map at least annually
- (E) Upon adoption of this Chapter, land that was zoned within a zoning district classification existing prior to July 1, 2006, shall be classified within one of the zoning district classifications set forth in Article 3: *Zoning Districts* and as shown in Table 78-105.E, *Transition to New Zoning Districts*. The following table summarizes the transition from former zoning ordinance districts to new districts set forth in this Chapter.

TABLE 78-105.E TRANSITION TO NEW ZONING DISTRICTS	
OLD ZONING DISTRICTS	NEW ZONING DISTRICTS
RESIDENTIAL	
Residential (RE-0.5)	Residential (R15)
Residential (R-15)	
Residential (R-10)	
Townhouse Cluster Residential (RTC-10)	Residential Townhouse Cluster (RTC)
Townhouse Cluster Residential (RTC-5)	
Garden Court Dwelling (R-GC)	
Multiple-Family Residential District (RM-1)	[combined with PD-R]
Multiple-Family Residential District (RM-2)	
Residential Multi-Family (RM)	
COMMERCIAL & INDUSTRIAL	
Neighborhood Commercial (C1)	Commercial Service (CS)
Highway Commercial Corridor (C2)	
Commercial Service (C3)	
Central Commercial (CC)	Central Commercial (CC)
Commercial Offices (CO)	Commercial Offices (CO)
Industrial Office (IO)	Office and Light Industry (O&LI)
Industrial Park (IP)	
Industrial Medium (IM)	
Industrial General (IG)	
PLANNED DEVELOPMENT	
Residential Planned Community (RPC)	Planned Development – Residential (PD-R)
Planned Development Housing (PD-H)	
Planned Development – Shopping Centers (PD-SC)	Planned Development – Business (PD-B)
Planned Development – Industrial Park (PD-IP)	
Planned Development – Commercial (PD-C)	Planned Development – Worldgate (PD-W)
Planned Development Mixed Use (PD-MU)	Planned Development – Downtown (PD-D)
OVERLAY DISTRICTS	
Floodplain Overlay District (FOD)	Floodplain Overlay District (FOD)
Historic Landmarks and Heritage Preservation Overlay District (HPOD)	Heritage Preservation Overlay District (HPD)
Chesapeake Bay Preservation Area Overlay District (CBPAOD)	Chesapeake Bay Preservation Area Overlay District (CBPAOD)

78-106 SEVERABILITY

It is the legislative intent of the Town Council in adopting this Chapter that all provisions be liberally construed to protect and preserve the public health, safety, and welfare of the property owners and residents of the Town. If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Town Council declares that it would have passed this Chapter and any section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

78-107 TRANSITIONAL RULES

- (A) The effective date of this Chapter is July 1, 2006. This Chapter shall apply to applications submitted and accepted under this Chapter on or after this date. This Chapter shall not affect any complete application that has been submitted and accepted for review but for which no final action has been taken by the appropriate decision-making body prior to the effective date of this Chapter. Such application shall be considered processed and acted on under the law in effect prior to the effective date of this Chapter.
- (B) When a development plan has been commenced or approved under a previous version of this Chapter, it may be completed only in accordance with the provisions below.

 - (1) A development for which approval is granted by the Town prior to July 1, 2006 that is deemed to be a significant affirmative governmental act allowing development of a specific project pursuant to Section 15.2-2307 of the Code of Virginia may be completed in accordance with the development approval or permit. The development approvals and permit subject to this provision shall include:

 - (a) An Official Zoning Map Amendment, subject to proffers, to the extent that the proffers or Generalized Development Plan conflict with this Chapter;
 - (b) An Official Zoning Map Amendment for a specific use or density;
 - (c) A Conditional Use Permit, to the extent that the permitted uses or Generalized Development Plan conflict with this Chapter;
 - (d) A Variance;
 - (e) A Certificate of Appropriateness;
 - (f) A Site Plan approval;
 - (g) Preliminary Plans, Engineering Plans and Record Plats for Subdivision;
 - (h) Building Permits; and
 - (i) Any other permit or approval vested by Section 15.2-2307 of the Code of Virginia.

- (2) If development for which a Site Plan, a Preliminary Plan for Subdivision, a Record Plat for Subdivision, or a Building Permit was granted prior to July 1, 2006 fails to comply with any time frames in effect for development applications at the time of approval, the final approval shall expire and future development shall be subject to the requirements of this Chapter.
- (C) Any violation of the previous Zoning Ordinance (Chapter 78, Zoning) of the Town shall continue to be a violation under this Chapter and shall be subject to the penalties and enforcement set forth in Section 78-203, *Enforcement and Remedies*, unless the use, development, construction, or other activity complies with the express terms of this Chapter.